

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 876(M/B) 2006

Laxman Ram S/o Sri Bhim Ram,
Village- Darati, P.O. Rathi, Tehsil-Munsyari,
District Pithoragarh. -----Petitioner.

Vs.

1. State of Uttaranchal, through Collector Pithoragarh,
2. Tehsildar- Munsyari, (Pithoragarh),
3. Pithoragarh Zila Sahkari Bank Ltd.
Branch at Munsyari,
Through its Branch Manager. ---Respondents.

Mr. B.S. Adhikari, Adv. for the petitioner.
Learned Standing Counsel for the State/respondent nos. 1 & 2.
Sri V.B.S. Negi, learned counsel for respondent no. 3.

**Coram: Hon'ble M.M. Ghildiyal, J.
Hon'ble B.S. Verma, J.**

P.C.:-

Heard Sri B.S. Adhikari, learned counsel for the petitioner, learned Standing Counsel for the State/respondent nos. 1 & 2 and Sri V.B.S. Negi, learned counsel for the respondent no. 3.

By the present writ petition, the petitioner has prayed for the following reliefs:-

- i. Issue a writ, order or direction in the nature of mandamus directing the respondents to permit the petitioner for selling the said vehicle named 'Swaraj Majda' which is a small truck of about 60 Quintal capacity numbered as UP-03/4239,

- ii. Issue a writ, order or direction in the nature of mandamus directing the respondents for not taking any coercive step against the petitioner and adjust the sale consideration against recovery amount,
- iii. To pass any other order or direction as this Court deems fit and proper under the facts and circumstances of the case,
- iv. To award cost throughout.

Submission of the petitioner, as averred in the writ petition, is that he purchased a vehicle in the year 2000 after obtaining loan amounting to Rs. 3.98 lacs from respondent no. 3. Out of the said loan amount he has already repaid a sum of Rs. 1,88,634/-. The respondent no. 3 has issued citation on 21.02.2006 for recovery of amount to the tune of Rs. 4,25,572/-. The vehicle is hypothecated to the respondent no. 3. It is pleaded that the petitioner may be permitted to repay the outstanding balance amount in easy installments. Learned counsel for the respondent no. 3 has no objection of the offer given the petitioner.

In the circumstances, it is directed that no coercive measure shall be adopted for recovery of the outstanding balance amount of the loan, provided the petitioner deposits the entire balance amount in four equal installments within a period of one year. The first installment shall be paid by 31st October 2006 and the rest of the installments shall be paid after every three months.

In the meantime, the petitioner may approach to the Tehsildar concerned for selling the vehicle through auction and

the sale consideration shall be adjusted against the amount to be recovered from petitioner.

With these directions, the writ petition is finally disposed of.

(B.S. Verma, J.)

(M.M. Ghildiyal, J.)

July 27, 2006:

NCM: